

(Translated from French)

COMMISSION ON HUMAN RIGHTS

Inter-sessional open-ended working group
to elaborate a draft legally binding normative
instrument for the protection of all persons
from enforced disappearance
Geneva, 12-23 September 2005

WORKING PAPER

Preamble

The States Parties to [this instrument],

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to the Universal Declaration of Human Rights,

Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and all other relevant international instruments in the field of human rights, humanitarian law and international criminal law,

Recalling the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the General Assembly of the United Nations in its resolution 47/133 of 18 December 1992,

Aware of the extreme seriousness of enforced disappearance, which constitutes a crime and, in certain circumstances defined in international law, a crime against humanity,

Determined to prevent enforced disappearances and combat impunity for the crime of enforced disappearance,

Affirming the right of any person not to be subjected to an enforced disappearance, the right of victims to justice and to reparation, and their right to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person,

Have agreed as follows:

Article 1 (former art. 1)

For the purposes of [this instrument], enforced disappearance is considered to be the arrest, detention, abduction or any other deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.

Article 2 (former art. 2, para. 2)

[non-State actors]

Article 3 (former art. 1 bis)

1. No one shall be subjected to enforced disappearance.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.

Article 4 (former art. 2, para. 1)

Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law.

Article 5 (former art. 2 bis)

The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

Article 6 (former art. 3)

1. Each State Party shall take the necessary measures to hold criminally responsible at least:

(a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(b) The superior who:

(i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;

(ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and

(iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of the enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;

(c) Subparagraph (b) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

Article 7 (former art. 4)

1. Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness.

2. Each State Party may establish:

(a) Mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to bringing the disappeared person forward alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance;

(b) Without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors or other particularly vulnerable persons.

Article 8 (former art. 5)

Without prejudice to article 5,

1. A State Party which applies a statute of limitations in respect of enforced disappearance shall take the necessary measures to ensure that the term of limitation for criminal proceedings:

(a) Is of long duration and is proportionate to the extreme seriousness of this offence;

(b) Commences from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.

2. Each State Party shall guarantee the right of victims of enforced disappearances to an effective remedy during the term of limitation.

Article 9 (former art. 9)

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offence of enforced disappearance:

(a) When the offence is committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is one of its nationals;

(c) When the disappeared person is one of its nationals and the State Party considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.

3. [This instrument] does not exclude any additional criminal jurisdiction exercised in accordance with national law.

Article 10 (former art. 10)

1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be continued only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.

2. A State Party which has taken the measures referred to in paragraph 1 shall immediately carry out a preliminary inquiry to establish the facts. It shall notify the States Parties referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and the findings of its preliminary inquiry, indicating whether it intends to exercise its jurisdiction.

3. Any person in custody pursuant to paragraph 1 shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State where he or she usually resides.

Article 11 (former art. 11)

1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. In the cases referred to in article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 9, paragraph 1.

3. Any person against whom proceedings are brought in connection with an offence of enforced disappearance shall be guaranteed fair treatment at all stages of the proceedings. Any person tried for an offence of enforced disappearance shall benefit from a fair trial before a competent, independent and impartial court or tribunal established by law.

Article 12 (former art. 12)

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where appropriate, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 shall undertake an investigation, even if there has been no formal complaint.

3. Each State Party shall ensure that the authorities referred to in paragraph 1:

(a) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;

(b) Have access, if necessary with the prior authorization of a judicial authority, which shall rule on the matter as quickly as possible, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.

4. Each State Party shall take the necessary measures to prevent and punish acts that hinder the conduct of the investigations. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of the investigations by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.

Article 13 (former art. 13)

1. For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds.

2. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of [this instrument].

3. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

4. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider [this instrument] as the necessary legal basis for extradition in respect of the offence of enforced disappearance.

5. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.

6. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

7. Nothing in [this instrument] shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, membership of a particular social group or political opinions, or that compliance with the request would cause prejudice to that person for any one of these reasons.

Article 14 (former art. 14)

1. States Parties shall afford one another the greatest measure of legal assistance in connection with any criminal investigation or proceedings relating to an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings.

2. Such legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual judicial assistance, including, in particular, the conditions in relation to the grounds upon which the requested State Party may refuse to grant judicial assistance or may make it subject to conditions.

Article 15 (former art. 15)

States Parties shall cooperate with each other and shall afford one another the greatest measure of assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

Article 16 (former art. 15 bis)

1. No State Party shall expel, return (“refouler”), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

Article 17 (former art. 16)

1. No one shall be held in secret detention.
2. Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:
 - (a) Establish the conditions under which orders of deprivation of liberty may be given;
 - (b) Indicate those authorities authorized to order the deprivation of liberty;
 - (c) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;

(d) Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;

(e) Guarantee access by the competent authorities and legally authorized institutions to the places where persons are deprived of liberty;

(f) Guarantee that any person deprived of liberty and, in the case of a suspected enforced disappearance, any person with a legitimate interest shall, in all circumstances, be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of the deprivation of liberty and order the release if that deprivation of liberty is not lawful.

3. Each State Party shall assure the compilation and maintenance of one or more up-to-date official registers and/or records of persons deprived of liberty, which shall be made promptly available, upon request, to any judicial or other competent authority or institution authorized for that purpose by the law of the State Party concerned or any relevant international legal instrument to which the State concerned is a party. The information contained therein shall include, as a minimum:

(a) The identity of the person deprived of liberty;

(b) The date, time and location where the person was deprived of liberty and the identity of the authority who deprived the person of liberty;

(c) The authority having decided the deprivation of liberty and the reasons for the deprivation of liberty;

(d) The authority controlling the deprivation of liberty;

(e) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;

(f) Elements regarding the physical integrity of the person deprived of liberty;

(g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the human remains;

(h) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer.

Article 18 (former art. 16 bis, paras. 1 and 2)

1. Without prejudice to articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representative or their counsel, access to at least the following information:

(a) The authority having decided the deprivation of liberty;

(b) The date, time and location where the person was deprived of liberty and admitted to the place of deprivation of liberty;

(c) The authority controlling the deprivation of liberty;

(d) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;

(e) The date, time and place of release;

(f) Elements regarding the physical integrity of the person deprived of liberty;

(g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the human remains.

2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

Article 19 (former art. 16 bis, paras. 3 and 4)

1. Personal information, including medical and genetic data, which are collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings relating to an offence of enforced disappearance or the exercise of the right to obtain reparation.
2. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual.

Article 20 (former art. 17)

1. States Parties may refuse the requests for information referred to in article 18, where necessary in a democratic society and in accordance with the law, if the transmission of the information undermines the privacy or safety of a person or hinders a criminal investigation, or in accordance with other legal provisions that are not contrary to the objectives of [this instrument]. In no case shall States Parties refuse to provide information on whether the person has been deprived of liberty or has died while deprived of liberty.
2. Without prejudice to consideration of the lawfulness of the deprivation of a person's liberty, States Parties shall guarantee to the persons referred to in article 18, paragraph 1, the right to a prompt and effective remedy as a means of obtaining without delay the information referred to in article 18, paragraph 1. This right to a remedy may not be suspended or restricted in any circumstances.

Article 21 (former art. 18)

Each State Party shall take the necessary measures to ensure that persons are released in a manner permitting reliable verification that they have actually been released. Each State Party shall also take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release, without prejudice to any obligations to which such persons may be subject under national law.

Article 22 (former art. 19)

1. Without prejudice to article 6, each State Party shall take the necessary measures to prevent and impose sanctions for the following conduct:

(a) Delaying or obstructing the remedies referred to in article 17, paragraph 1 (f), and article 20, paragraph 2;

(b) Failure to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register and/or records knew or should have known to be inaccurate;

(c) Refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met.

Article 23 (former art. 20)

1. Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty includes the necessary education and information regarding the relevant provisions of [this instrument], in order to:

(a) Prevent the involvement of such officials in enforced disappearances;

(b) Emphasize the importance of prevention and investigations in relation to enforced disappearances;

(c) Ensure that the urgent need to resolve cases of enforced disappearance is recognized.

2. Each State Party shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited. Each State Party shall guarantee that a person who refuses to obey such an order will not be punished.

3. Each State Party shall take the necessary measures to ensure that the persons referred to in paragraph 1 who have reason to believe that an enforced disappearance has occurred or is planned report the matter to their superiors and, where necessary, to the appropriate authorities or organs vested with reviewing or remedial powers.

Article 24 (former art. 22)

1. For the purposes of [this instrument], “victim” means the disappeared person and any individual who has suffered harm as a direct result of an enforced disappearance.

2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.

3. Each State Party shall take the necessary measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains.

4. Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation.

5. The right to obtain reparation referred to in paragraph 4 covers material and psychological harm and, where appropriate, other means of reparation such as:

- (a) Restitution;
- (b) Rehabilitation;
- (c) Satisfaction, including restoration of dignity and reputation;
- (d) Guarantee of non-repetition.

6. Without prejudice to the obligation to continue the investigation until the fate of the disappeared person has been clarified, each State Party shall take the appropriate steps with regard to the legal situation of the disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

7. Each State Party shall guarantee the right to form and participate freely in organizations and associations concerned with contributing to the establishment of the circumstances of enforced disappearances and the fate of disappeared persons, and with assistance to victims of enforced disappearance.

Article 25 (former arts. 23, 24, 25)

1. Each State Party shall take the necessary measures to prevent and punish under its criminal law:

(a) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;

(b) The falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (a).

2. Each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 (a) and to return them to their families of origin, in accordance with legal procedures and applicable international agreements.

3. States Parties shall assist one another in searching for, identifying and locating the children referred to in paragraph 1 (a).

4. Given the need to protect the best interests of the children referred to in paragraph 1 (a) and their right to preserve, or to have re-established, their identity, including their nationality and family relations as recognized by law, States Parties which recognize a system of adoption or other form of placement of children shall have legal procedures in place to review the adoption or placement procedure, and, where appropriate, to annul any adoption or placement of children that stemmed from an enforced disappearance.

5. In all cases, and in particular in all matters relating to this article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

Article 26 (former part II)

Article 26-1

[This instrument] shall be monitored by a Committee.

Article 26-2 (former art. II-0 bis)

1. The Committee shall cooperate with all the relevant organs, offices and specialized agencies and funds of the United Nations, with all relevant treaty bodies instituted by relevant international instruments and special procedures of the Commission on Human Rights of the United Nations, and with all relevant regional intergovernmental organizations or bodies, as well as with all relevant State institutions, agencies or offices working towards the protection of all persons against enforced disappearances.

2. As it discharges its mandate under article 26-4, the Committee shall cooperate fully with the Working Group on Enforced or Involuntary Disappearances established by resolution 1980/45.

3. As it discharges its mandate under article 26-6 in particular, the Committee shall take due account of the observations and recommendations of other treaty bodies instituted by relevant international human rights instruments.

Article 26-3 (former art. II-A)

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a report on the measures taken to give effect to its obligations under [this instrument], within two years after the entry into force of [this instrument] for the State Party concerned.

2. The Secretary-General of the United Nations shall make this report available to all States Parties.

3. Each report shall be considered by the Committee, which shall issue such comments, observations or recommendations as it may deem appropriate. The comments, observations or recommendations shall be communicated to the State Party concerned, which may respond to them, on its own initiative or at the request of the Committee.

4. The Committee may also request at any time information from States relevant to the implementation of [this instrument].

Article 26-4 (former art. II-B)

1. A request that a disappeared person should be sought and found may be submitted to the Committee by relatives of the disappeared person or their legal representatives, their counsel or any person authorized by them, as well as by any person having a legitimate interest.

2. If the Committee considers that the request submitted in pursuance of paragraph 1:

(a) Is not manifestly unfounded;

(b) Does not constitute an abuse of the right of submission of such communications requests;

(c) Has already been duly presented to the competent bodies of the State Party concerned, when this possibility exists; and

(d) Is not incompatible with the provisions of [this instrument];

it shall request the State Party concerned to provide it with information on the situation of the person concerned, within a time limit set by the Committee.

3. In the light of the response provided by the State Party concerned in accordance with paragraph 2, the Committee shall transmit a recommendation to the State Party and shall inform the person presenting the request. The Committee may also request the State Party to take appropriate measures, including interim measures, and to report to it on them, within a time limit set by the Committee, taking into account the urgency of the situation.

4. The Committee shall continue its efforts to work with the State Party concerned for as long as the fate of the person sought remains unresolved. The person presenting the request shall be kept informed.

Article 26-5 (former art. II-C)

1. If the Committee considers that a visit to the territory of a State Party is necessary to discharge its mandate, it may request one or more of its members to undertake a visit and report back to it without delay. The member or members of the Committee who undertake the visit may be accompanied if necessary by interpreters, secretaries and experts. No member of the delegation, with the exception of the interpreters, may be a national of the State to which the visit is made.

2. The Committee shall seek the cooperation of the State Party concerned. It shall notify the State Party concerned in writing of its intention to organize a visit, indicating the composition of the delegation and the purpose of the visit. The State Party shall inform the Committee as soon as possible of its agreement or opposition to the visit in a territory over which it has jurisdiction.

3. If the State Party agrees to the visit, the Committee and the State Party concerned shall work together to define the modalities of the visit and the State Party shall provide the Committee with all the facilities needed for the successful completion of the visit.

Article 26-6 (former art. II-C bis)

1. A State Party may at the time of ratification or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation of the provisions of [this instrument]. The Committee shall not admit any communication concerning a State Party which has not made such a declaration.

2. The Committee may not consider a communication where:

(a) The communication is anonymous;

(b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of [this instrument];

(c) The same matter is being examined under another procedure of international investigation or settlement;

(d) The individual concerned has not exhausted all effective available domestic remedies. This rule shall not apply where the application of the remedies is unreasonably prolonged.

3. If the Committee considers that the communication meets the requirements set out in paragraph 2, it shall transmit the communication to the State Party concerned, requesting it to provide observations and comments within a time limit set by the Committee. If need be, it shall request interim measures.

4. The Committee shall hold closed meetings when examining communications under the present article. It shall inform the author of the communication of the responses provided by the State Party concerned. It shall terminate the procedure set out in this article by communicating its views to the State Party and to the author of the communication.

Article 26-7 (former art. II-C ter)

If the Committee receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory of a State Party, it may, after seeking from the State Party concerned all relevant information on the situation, bring the matter to the attention to the Secretary-General of the United Nations, who will act in accordance with the powers granted to him or her by the Charter of the United Nations.

Article 26-8 (former art. II-E)

1. The Committee shall have competence solely in respect of deprivations of liberty which commenced after the entry into force of [this instrument].

2. If a State becomes a party to [this instrument] after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to deprivations of liberty which commenced after the entry into force of [this instrument] for the State concerned.

Article 26-9 (former art. II-F)

1. The Committee shall submit an annual report on its activities under [this instrument] to the States Parties and to the General Assembly of the United Nations.

2. Before an observation on a State Party is published in the annual report, the State Party concerned shall be informed in advance and shall be given reasonable time to answer. This State Party may request the publication of its comments or observations in the report.

Article 27 (former art. III-O)

[This instrument] is without prejudice to the rules of international law and to any other international instrument or national legislation which does or may contain provisions of wider application.

Article 28 (former art. III-A)

1. [This instrument] is open for signature by [...].

2. [This instrument] is subject to ratification by [...]. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. [This instrument] is open to accession by [...]. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 29 (former art. III-B)

1. [This instrument] shall enter into force on the thirtieth day after the date of deposit of the twentieth instrument of ratification or accession.

2. For each State ratifying [this instrument] or acceding to it after the deposit of the twentieth instrument of ratification or accession, [this instrument] shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 30 (former art. III-C)

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed [this instrument] or acceded to it of the following:

- (a) Signatures, ratifications and accessions under article 28;
- (b) The date of entry into force of [this instrument] under article 29.

Article 31 (former art. III-D)

The provisions of [this instrument] shall extend to all parts of federal States without any limitations or exceptions.

Article 32 (former art. III-D bis)

1. Any State, at the time of signature, ratification or accession, may declare that [this instrument] will be extended to all territory for whose international relations it is responsible. Such a declaration shall take effect when [this instrument] enters into force for the State concerned.
2. Notification of such an extension may be addressed at any time to the Secretary-General of the United Nations, and the extension will take effect [...] days after notification has been received by the Secretary-General of the United Nations.

Article 33 (former art. III-F)

[This instrument] is without prejudice to the provisions of international humanitarian law, including the obligations of the High Contracting Parties to the four Geneva Conventions of 12 August 1949 and the additional protocols thereto of 8 June 1977, or to the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 34 (former art. III-G)

1. Any State Party to [this instrument] may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to [this instrument] with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to [this instrument] have accepted it in accordance with their respective constitutional processes.

3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of [this instrument] and any earlier amendment which they have accepted.

Article 35 (former art. III-H)

1. [This instrument], of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of [this instrument] to all States.
